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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **MYRNA LIZ ALIVIO GAGANTE**
14 **1375 Story Court**
15 **San Jose, CA 95127**

16 **Registered Nurse License No. 658854**
17 **Nurse Practitioner Certificate No. 17697**
18 **Nurse Practitioner Furnishing Certificate No. 17697**

19 Respondent.

Case No. **2013-162**

A C C U S A T I O N

20 Complainant alleges:

21 **PARTIES**

- 22 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Accusation solely in her
23 official capacity as the Executive Officer of the Board of Registered Nursing (Board),
24 Department of Consumer Affairs.
- 25 2. On or about June 13, 2005, the Board issued Registered Nurse License Number
26 658854 to Myrna Liz Alivio Gagante (Respondent). On or about August 31, 2007, the Board
27 issued Nurse Practitioner Certificate Number 17697 to Respondent. On or about August 27,
28 2008, the Board issued Nurse Practitioner Furnishing Certificate Number 17697 to Respondent.
Respondent's license and certificates were in full force and effect at all times relevant to the
charges brought herein and will expire on November 30, 2012, unless renewed.

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“(4) Delegates tasks to subordinates based on the legal scopes of practice of the subordinates and on the preparation and capability needed in the tasks to be delegated, and effectively supervises nursing care being given by subordinates.

“(5) Evaluates the effectiveness of the care plan through observation of the client's physical condition and behavior, signs and symptoms of illness, and reactions to treatment and through communication with the client and health team members, and modifies the plan as needed.

“(6) Acts as the client's advocate, as circumstances require, by initiating action to improve health care or to change decisions or activities which are against the interests or wishes of the client, and by giving the client the opportunity to make informed decisions about health care before it is provided.”

COST RECOVERY

8. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licensee found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

9. Respondent is subject to disciplinary action under Code section 2761, subdivision (a), for unprofessional conduct in that, on or about November 5, 2010, while working as a family nurse practitioner at Pediatric Center for Life in San Jose, California, Respondent saw Michael O., an uncircumcised toddler, for his two-year well-baby examination. During the examination, Respondent unnecessarily and forcibly retracted Michael's foreskin. Michael cried during the procedure and suffered pain with urination for days afterward.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 658854, Nurse Practitioner Certificate Number 17697, and Nurse Practitioner Furnishing Certificate Number

1 17697, issued to Myrna Liz Alivio Gagante;

2 2. Ordering Myrna Liz Alivio Gagante to pay the Board of Registered Nursing the
3 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
4 Professions Code section 125.3;

5 3. Taking such other and further action as deemed necessary and proper.
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7

8 DATED: September 5, 2012 Stacie Benn
9 *fw* LOUISE R. BAILEY, M.ED., RN
10 Executive Officer
11 Board of Registered Nursing
12 Department of Consumer Affairs
13 State of California
14 Complainant

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